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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE EASTERN DISTRICT OF CALIFORNIA
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11 RAYMOND THOMAS GARCIA, JR.,
12 Petitioner,
13 v.
14
15 SUPERIOR COURT OF KERN
16 COUNTY, et al.,
17 Respondents.
18

19 Case No. 1:15-cv-01685 MJS (HC)

20 **ORDER DISMISSING PETITION FOR WRIT
21 OF HABEAS CORPUS FOR FAILING TO
22 STATE COGNIZABLE CLAIM**

23 **AMENDED PETITION DUE WITHIN THIRTY
24 (30) DAYS**

25 Petitioner appears to be a former state prisoner proceeding *pro se* with a petition
26 for writ of habeas corpus under the authority of 28 U.S.C. § 2254.

27 Petitioner filed the instant petition for writ of habeas corpus on November 5, 2015.
28 (Pet., ECF No. 1.) Based on Petitioner's return address at the time of filing, Petitioner
was housed at California State Prison Centinela, in Imperial County, California.
However, it appears that Petitioner is no longer in custody and is currently residing in
Riverside County, California.

29 Petitioner describes and appears to challenge several different convictions from
30 Imperial and Riverside Counties. Without clarification as to what conviction, if any,

1 Petitioner is challenging, the Court is unable to discern if he has a cognizable federal
 2 habeas petition. In addition, without further specificity regarding the legal challenges, the
 3 Court is not able to determine which federal judicial district is the proper Court to present
 4 his challenges.¹

5 **I. DISCUSSION**

6 **A. Procedural Grounds for Summary Dismissal**

7 Rule 4 of the Rules Governing Section 2254 Cases provides in pertinent part:

8 If it plainly appears from the petition and any attached exhibits that
 9 the petitioner is not entitled to relief in the district court, the judge must
 dismiss the petition and direct the clerk to notify the petitioner.

10 The Advisory Committee Notes to Rule 8 indicate that the court may dismiss a
 11 petition for writ of habeas corpus, either on its own motion under Rule 4, pursuant to the
 12 respondent's motion to dismiss, or after an answer to the petition has been filed. A
 13 petition for habeas corpus should not be dismissed without leave to amend unless it
 14 appears that no tenable claim for relief can be pleaded were such leave granted. Jarvis
 15 v. Nelson, 440 F.2d 13, 14 (9th Cir. 1971).

16 **B. Petitioner's Claims**

17 The Court finds Petitioner's lengthy explanation of his claims to be largely
 18 unintelligible. He alludes to several different convictions and different grounds for relief,
 19 but provides little factual support for them. (See generally, Pet.) The Petition does not
 20 reveal what conviction or convictions Petitioner challenges or his theory of relief from
 21 them.

22 Petitioner's statements are so incomprehensible as to deny Respondent the
 23 opportunity to respond to them. The notice pleading standard applicable in ordinary civil
 24 proceedings does not apply in habeas corpus cases. Habeas Rules 2(c), 4, and 5(b)
 25 require a more detailed statement of all grounds for relief and the facts supporting each
 26

27 ¹ It is usually proper to transfer a federal habeas petition to the district in which Petitioner was
 28 convicted. As Petitioner challenges convictions from the Central District of California (Riverside County)
 and the Southern District of California (Imperial County), it is unclear where transfer would be appropriate.

1 ground; the petition is expected to state facts that point to a real possibility of
 2 constitutional error and show the relationship of the facts to the claim. Habeas Rule 4,
 3 Advisory Committee Notes, 1976 Adoption; Mayle v. Felix, 545 U.S. 644, 655 (2005);
 4 O'Bremski v. Maass, 915 F.2d 418, 420 (9th Cir. 1990) (quoting Blackledge v. Allison,
 5 431 U.S. 63, 75 n.7 (1977)). This is because the purpose of the rules is to assist the
 6 district court in determining whether the respondent should be ordered to show cause
 7 why the writ should not be granted and to permit the filing of an answer that satisfies the
 8 requirement that it address the allegations in the petition. Mayle, 545 U.S. at 655.
 9 Allegations in a petition that are vague, conclusional, or palpably incredible, and that are
 10 unsupported by a statement of specific facts, are insufficient to warrant relief and are
 11 subject to summary dismissal. Jones v. Gomez, 66 F.3d 199, 204-05 (9th Cir. 1995);
 12 James v. Borg, 24 F.3d 20, 26 (9th Cir. 1994).

13 Petitioner does not specify the conviction he is challenging or what federal law he
 14 claims was violated by Respondent. Without more, Respondent cannot reasonably be
 15 expected to respond to Petitioner's claims and the Court is incapable of determining
 16 whether and where jurisdiction may exist.

17 A petition for habeas corpus should not be dismissed without leave to amend
 18 unless it appears that no tenable claim for relief can be pleaded were such leave
 19 granted. Jarvis v. Nelson, 440 F.2d 13, 14 (9th Cir. 1971). Accordingly, the Court will
 20 provide Petitioner another opportunity to state his claims in an amended petition.

21 The Court will provide Petitioner a blank petition for writ of habeas corpus. Using
 22 the petition form provided, Petitioner must reference the instant case number and
 23 designate his petition as an "Amended Petition." He must present each and every of his
 24 challenges and claims in sufficient detail as to provide Respondent the ability to
 25 comprehend and respond with reasonable effort.

26 **II. ORDER**

27 Accordingly, it is HEREBY ORDERED that:

28 1. Petitioner is GRANTED thirty (30) days from the date of service of this Order to

1 SUBMIT an AMENDED PETITION. The amended petition should be clearly and
2 boldly titled "AMENDED PETITION," contain the appropriate case number, and be
3 an original signed under penalty of perjury;
4 2. The Clerk of Court is DIRECTED to send Petitioner a blank form petition for
5 Petitioner's filing pursuant to 28 U.S.C. § 2254; and,
6 3. Petitioner is forewarned that her failure to comply with this order may result in a
7 Recommendation that the petition be dismissed pursuant to Local Rule 110.

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9 IT IS SO ORDERED.

10 Dated: May 25, 2016

11 /s/ *Michael J. Seng*
12 UNITED STATES MAGISTRATE JUDGE

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